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The Joint Commenters do not represent every type of Licensee in the 800 MHz band and regardless of whether the Commenters and their members represent 80% of the “impacted spectrum at 800 MHz”, they do not represent in terms of Licenses the 800MHz incumbent SMR’s and EA License winners who would irreversibly be damaged should the FCC adopt the Consensus Proposal in its present form.

No one should or has disputed that Public Safety is and should be the Commission’s primary concern. However, the Commission should duly weigh and evaluate the fact that it is Nextel’s system alone whose frequency re-use pattern has created the problem that remains to be solved. Logically, Nextel has come forward with a solution. One can even argue that parts of *their* solution can be and should be applied. However, no solution should ever be applied which disembowels and renders unto extinction the incumbent 800MHz SMR. Likewise, an EA Licensee that has formulated its’ business plan and subsequent financing from that plan cannot be ethically stripped of the spectrum upon which all its previous structuring for equipment and wide-area service to the public was based.

Relocation to an alternate frequency band will not only devalue the worth of the incumbent’s and EA Licensee’s spectrum, it will prevent timely availability of that spectrum for use by the public for an untold number of years to come. More compellingly, the likelihood that equipment manufacturers could provide compatible infrastructures between two widely separated frequency bands in a manner that the EA License holder could timely realize its’ plan to provide service to the public, would be impossible. Even with research and physics such a feat would potentially take a decade to be accomplished. In the meantime, the resulting reduction of the value of spectrum bought and paid for would neutralize or neuter the incumbent and EA. License holders.

There is absolutely no reason or justification for the forced relocation of non-cellular incumbent SMR’s operating from 851-854. These Licensees do not create interference problems for Public Safety. Forced relocation would not only be completely devastating to small SMRs in terms of finances, it would also be completely unfeasible, unethical, and unacceptable. Additionally, the suggestion that incumbents could remain in 800MHz on a secondary basis would not only devalue the worth of the incumbent’s spectrum and business, it would also by the very nature of channel sharing create a scenario whereby new interference problems would arise.

Nextel has more than ample channel capacity from 852-854 to surrender to Public Safety. Therefore, as a willing agent Nextel should do so, particularly since it is Nextel's system that has posed the greatest interference with Public Safety. However, Nextel's decision to surrender certain channels to resolve its' interference problems should not come at the expense of the small SMR or EA auction winner. While Public Safety does represent a strong number of users across the United States, they are only a limited # of users per market. Nextel's statement that it is "highly confident of its' commitment to provide funding" for relocations is non-specific in terms of how it will compensate incumbent SMRs and FCC auction winners. Frankly, we are perplexed as to how a company as complex in structure and planning as Nextel either overlooked or did not envision and provide for the possibility that frequency re-use would result in interference with adjacent Licensees in Public Safety. Surely, any average engineer could have foreseen this possibility while Nextel was contemplating the build-out of a nationwide network in the same frequency band where Public Safety and analog SMR's had been operating for some time without incidence.

One hundred and fifty million is not enough to protect the years of time, money, and service invested by countless dozens of independent SMRs. Will Nextel pay for the loss of customers and the devaluation of spectrum bought at a premium from the FCC? It appears not. If the Commission adopts the proposal in its current form, it should be prepared to also be responsible for the extinction of hundreds of businesses across America.

While the Consensus plan purportedly assures that "no 800 MHz incumbent loses spectrum", it does not assure that the value of the spectrum exchanged will be commensurate, nor that the corresponding equipment, if even available, can be integrated through re-programming into the pre-existing system. Again, 150 million is not enough, so who will make up the deficit? Is there a provision for the compensation of lost customers or financing? No, there is not under the current proposal. Where *exactly* does the money come from? No one expects Nextel to pay for everything. Therefore, we must have an exact count of the number of public safety users affected by Nextel's frequency re-use in every market. This Licensee contends that Nextel already holds enough spectrum in the affected markets to provide the necessary transference or relocation of Public Safety. Where they do not, they should purchase at fair market value the spectrum of incumbents required to meet Public Safety's need.

In this manner, the small SMR can be left alone wherever possible to continue to fill a public service without either intrusion upon Public Safety, but also without a crippling devaluation to the total investment and value that company has provided to its market. If Nextel needs additional spectrum in a market, there is no need for it to drive an incumbent out of business. If their numbers are accurate, they should allocate enough of the \$150 million set aside to purchase the respective SMR.

With regard to the relocation of "members" to the 700 MHz and 900MHz bands, be advised that placing a value on spectrum the usage of which has yet to be determined is both arbitrary and from a position of reason, completely inadvisable. Conflicting designs and goals previously established in one frequency band are not sufficient justification for stripping certain non-cellular entities or EA. License holders in channels 1-120 of their authorizations, especially when the efficacy of these authorizations has already been proven.

While assuring funding for Public Safety entities is noble enough and necessary, the current plans presented for incumbent SMRs and EA License holders remains vague. Nextel's financials are unsupported by objective authorities and do not bear in mind the loss of value to spectrum holdings which are consistent with the business plans and operations of incumbent and EA Licensees. The end result of these failings will be a loss of time, value, and ability to support both immediate and long-term, operations of existing non-Nextel 851-854 MHz Licensees. We applaud the fact that Southern Linc should be permitted to "continue operating cellular mixed high- site and low-site architecture in the non-cellular block" what are, in fact, the safeguards against Public Safety Interference ? If Southern Linc can do it, would it be impossible for other EA Licensees to follow the same "safeguards" and therefore remain on the frequencies to which they are authorized ? Similarly, could not non-cellular incumbents who systems have historically never posed an interference problem with Public Safety also remain at their current authorizations in 851-854 MHz ?

The relocation of incumbents and wide-area 800 MHZ Licensees, as well as taking "off the table" for the clearing of channels 1-120, does not eradicate the interference to Public Safety. On the other hand, Nextel's vacation of frequencies adjacent to Public Safety does. The current Consensus Plan as presented is lacking in multiple areas. It offers solutions which never created the problem: i.e. that Licensees who have never interfered with P.S. should be relocated. Furthermore, it does not offer either enough justification for relocation or enough money to make relocation possible. We, the incumbents, most respectfully submit the foregoing. We are not the creation of the problem. Therefore, involuntary dispossession of our assets is neither rationally nor ethically the solution. As our coalition gathers and emerges, we look forward to a sounder, more practical resolution to the dangers facing Public Safety, and now, in light of the current "Consensus Proposal", facing both the incumbent and EA 800MHz Licensee.

Most respectfully Submitted,

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